

27
PM
10/10

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN RICHARD JAE,	:	CIVIL NO. 1:00-CV-1090
	:	
Plaintiff	:	(Judge Rambo)
	:	
v.	:	(Magistrate Judge Smyser)
	:	
DR. ROBERT CLARK,	:	
MARTIN L. DRAGOVICH,	:	
JOHN A. PALAKOVICH,	:	
ROBERT N. NOVOTNEY,	:	
MICHAEL J. KAZOR, and	:	
JOHN ANDRADE	:	
	:	
Defendants	:	

FILED
HARRISBURG, PA

OCT 06 2000

MARY E. D'ANDREA, CLERK
Per 918 Deputy Clerk

ORDER

The plaintiff commenced this 42 U.S.C. § 1983 action by filing a complaint on June 5, 2000. The only defendant named in the complaint was Dr. Robert Clark. By an Order dated June 21, 2000, the plaintiff's request to proceed *in forma pauperis* was granted and the Clerk of Court was directed to serve the plaintiff's complaint in accordance with Fed.R.Civ.P. 4.

On August 3, 2000, the plaintiff filed an amended complaint naming five additional defendants. By an Order dated August 9, 2000, the Clerk of Court was directed to serve the plaintiff's amended complaint on the new defendants in accordance with Fed.R.Civ.P. 4.

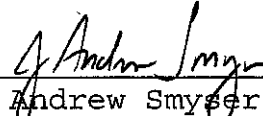
On September 18, 2000, the plaintiff filed a motion for a default judgment and a brief in support of that motion. The plaintiff contends that a default judgment should be entered against defendant Clark because defendant Clark did not timely respond to the complaint.

42 U.S.C. §1997e(g) (a) provides:

(1) Any defendant may waive the right to reply to any action brought by a prisoner confined in any jail, prison, or other correctional facility under section 1983 of this title or any other Federal law. Notwithstanding any other law or rule of procedure, such waiver shall not constitute an admission of the allegations contained in the complaint. No relief shall be granted to the plaintiff unless a reply has been filed.

Pursuant to 42 U.S.C. §1997e(g)(1) defendant Clark may waive his right to respond to the complaint. Thus, neither a default nor a default judgment should be entered against defendant Clark.

AND NOW, this 6th day of October, 2000, **IT IS HEREBY ORDERED** that the plaintiff's motion (doc. 18) for a default judgment is **DENIED**.



J. Andrew Smyser
Magistrate Judge

Dated: October 6th, 2000.

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

* * MAILING CERTIFICATE OF CLERK * *

October 6, 2000

Re: 1:00-cv-01090 Jae v. Clark

True and correct copies of the attached were mailed by the clerk
to the following:

John Richard Jae
SCI-Camp Hill
#BQ-3219
P.O. Box 200
Camp Hill, PA 17001-0200

James D. Young, Esq.
LAVERY, FAHERTY, YOUNG & PATTERSON, P. C.
P. O. Box 12465
Harrisburg, PA 17108-1245 Fax No.: 717-233-7003

Robert M. Wolff, Esq.
PA Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011-8028

cc:

Judge	()	
Magistrate Judge	()	
U.S. Marshal	()	
Probation	()	
U.S. Attorney	()	
Atty. for Deft.	()	
Defendant	()	
Warden	()	
Bureau of Prisons	()	
Ct Reporter	()	
Ctroom Deputy	()	
Orig-Security	()	
Federal Public Defender	()	
Summons Issued	()	with N/C attached to complt. and served by: U.S. Marshal () Pltf's Attorney ()
Standard Order 93-5	()	
Order to Show Cause	()	with Petition attached & mailed certified mail to: US Atty Gen () PA Atty Gen ()

Bankruptcy Court ()
Other _____ ()

DA of County () Respondents ()

MARY E. D'ANDREA, Clerk

DATE: _____

10/6/00

BY: _____

STB
Deputy Clerk